



After reviewing the record and considering the arguments of the parties, the Appeals Board finds that claimant sustained a nineteen percent (19%) general body disability and the Award of the Special Administrative Law Judge should be affirmed.

The dispute in this case relates to whether claimant's disability is limited to the right lower extremity or, as found by the Special Administrative Law Judge, is a disability to the body as a whole. There is no dispute that claimant sustained injury to his right knee on July 6, 1988 while performing duties as a pipe fitter in the maintenance division for respondent. He was treated by Dr. William D. Smith who eventually performed surgery for a torn medial meniscus. A second surgery was then performed on February 24, 1989 to remove a meniscus fragment. Upon his return to work from the second surgery to his right knee, claimant developed low back and left knee pain due to favoring his right knee.

Dr. Pazell examined claimant in February of 1990. Dr. Pazell found a medial patella plica of the right knee and he also noted the left knee showed signs of overuse syndrome due to favoring the right knee with possible derangement of the medial compartment and a medial patella plica. Dr. Pazell also indicated that the low back pain was due to a change in the gait due to the right knee injury. Dr. Pazell performed a third surgery of the right knee in August of 1990. He also performed a left knee arthroscopy.

The Appeals Board finds from the record as a whole, that claimant has established more probably than not that the left knee and low back injuries constituted aggravations of the preexisting degenerative conditions and that the aggravation was due to an altered gait resulting from the right knee injury. Dr. Pazell rated the claimant as having a ten percent (10%) impairment to the left knee, twelve percent (12%) to the right knee and a ten percent (10%) impairment to the general body for the lumbar spine. He converted the knee ratings and combined them with the general body rating for the low back to arrive at a permanent partial general body impairment rating of nineteen percent (19%). Dr. Smith concluded claimant had a fifteen percent (15%) impairment of the right knee, ten percent (10%) to the left, and a five percent (5%) impairment for the injury to the lumbar spine. He converted the injuries of the three parts of the body to a fifteen percent (15%) permanent partial impairment to the body as a whole. The Special Administrative Law Judge adopted the impairment ratings given by Dr. Pazell. The Appeals Board agrees and finds that claimant sustained a nineteen percent (19%) permanent partial general body disability. The Award of the Special Administrative Law Judge is, therefore, affirmed.

### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Special Administrative Law Judge William F. Morrissey dated July 21, 1994 should be, and hereby is, affirmed.

**AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR** of the claimant, Jimmy L. Tibbets, and against the respondent, Farmland Industries, Inc., and its insurance carrier, Aetna Casualty & Surety, for an accidental injury which occurred July 6, 1988 and based upon an average weekly wage of \$835.00, for 26.86 weeks of temporary total disability compensation at the rate of \$263.00 per week or \$7,064.18 followed by 388.14 weeks at the rate of \$105.77 per week or \$41,053.57 for a 19% permanent partial general body disability, making a total award of \$48,117.75.

As of February 29, 1996, there is due and owing claimant 26.86 weeks of temporary total disability compensation at the rate of \$263.00 per week or \$7,064.18, followed by 372.43 weeks of permanent partial disability compensation at the rate of \$105.77 per week in the sum of \$ 39,391.92, for a total of \$46,456.10 which is ordered paid in one lump sum less any amounts previously paid. The remaining balance of \$1,661.65 is to be paid for 15.71 weeks at the rate of \$105.77 per week, until fully paid or further order of the Director.

Future medical benefits will be awarded only upon proper application to and approval of the Director. Unauthorized medical expense of up to \$350.00 is ordered paid to claimant upon presentation of proof of such expense.

Claimant's attorney fee contract is hereby approved insofar as it is not inconsistent with K.S.A. 44-536.

Fees necessary to defray the expenses of the administration of the Workers Compensation Act are hereby assessed against the respondent to be paid direct as follows:

William F. Morrissey Special Administrative Law Judge	\$150.00
Karen Starkey, CSR Transcript of Hearing	\$ 61.60
Debra D. Oakleaf Transcript of Preliminary Hearing	\$128.10
Delmont Reporting Services Deposition of Jimmy Tibbets	\$275.90
Bartlesville Reporting Service Deposition of William Smith, M.D.	\$181.80
Hostetler & Associates, Inc. Deposition of John Pazell, M.D.	\$282.85

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February 1996.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Michael T. Harris, Wichita, Kansas  
Carlton W. Kennard, Pittsburg, Kansas  
Jeff K. Cooper, Topeka, Kansas  
William F. Morrissey, Special Administrative Law Judge  
Philip S. Harness, Director